

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

ETERON, INC.,

Debtor.

Chapter 11

Case No. 18-45161-pjs

Hon. Phillip J. Shefferly

**OBJECTION OF NYATEX CHEMICAL COMPANY
TO FIRST AMENDED MOTION TO TREAT
CERTAIN SUPPLIERS AS CRITICAL VENDORS**

Nyatex Chemical Company (“Nyatex”), by and through its counsel, Maddin, Hauser, Roth & Heller, P.C., states its Objection to Debtor’s First Amended Motion to Treat Certain Suppliers as Critical Vendors [Doc. No. 32] as follows:

1. Nyatex is a supplier of specialty adhesives to Debtor.
2. Debtor filed for relief under chapter 11 of the Bankruptcy Code on April 9, 2018 (the “Petition Date”).
3. On April 18, 2018, Debtor filed its First Amended Motion to Treat Certain Suppliers as Critical Vendors.

4. Debtor owes Nyatex the total amount of \$100,182.09 for goods supplied to Debtor prior to the Petition Date. Of this amount, \$38,435.04 is entitled to administrative expense priority under 11 U.S.C. §503(b)(9).¹

5. Additionally, Nyatex supplied goods post-petition to the Debtor in the amount of \$16,135.20, which remains unpaid (the “Post-petition Debt”). Attached as Exhibit A is a statement showing the Post-petition Debt.

6. Nyatex generally supports Debtor’s Motion, but files this Objection because Nyatex cannot ascertain from the Motion how the Debtor will pay the pre-petition debt or the Post-petition Debt.

7. Presently, Nyatex is selling to the Debtor on COD. However, this is not sufficient to limit risks to Nyatex regarding post-petition sales. In order to produce the specialty adhesive for Debtor, Nyatex must purchase specialized products which are used only for the formulation of this specialty adhesive, at a cost of approximately \$7,000 per week. In the event Debtor orders goods but does not complete the purchase of same, Nyatex will be left with goods with little or no value or other opportunity for use.

¹ On April 19, 2018, Nyatex advised Debtor of its 11 U.S.C. §503(b)(9) claim, requested payment of a post-petition invoice (see ¶4), and asserted certain reclamation rights (the “April 19th Letter”). The April 19th Letter contained all invoices in support of the demands. On April 20, 2018, Nyatex filed its Notice of Reclamation Demand [Doc. No. 36] which has the April 19th letter as an attachment without the supporting documentation. Nyatex has further realized that additional goods were supplied post-petition which remain unpaid. (See ¶5.)

8. The burden of this risk will be lessened if Debtor pays all pre-petition amounts promptly. However, Debtor's Motion does not advise creditors of how the pre-petition amounts will be paid. There is nothing in the Motion that addresses the method or timing of payment of the pre-petition debt. For example, Nyatex doesn't know if Debtor is proposing to pay the pre-petition debt in installments, if weekly or monthly, whether it is proposing to pay a fixed amount or a percentage of the pre-petition amount, or a lump sum payment.

9. Further, there is no proposal for payment of the 11 U.S.C. §503(b)(9) claim amount of \$38,435.04.

10. Nyatex requests that the Debtor promptly pay the Post-petition Debt in the amount of \$16,135.20, establish a payment plan for the pre-petition debt, and continue to pay the post-petition obligations COD.

WHEREFORE, Nyatex requests that any order establishing critical vendor status for Nyatex establish specific conditions for payment of the outstanding pre- and post-petition obligations of Debtor to Nyatex.

Respectfully submitted,

Dated: May 1, 2018

/s/ Julie Beth Teicher
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CERTIFICATE OF SERVICE

The undersigned certifies that on May 1, 2018, the Objection of Nyatex Chemical Company to First Amended Motion to Treat Certain Suppliers as Critical Vendors and this Certificate of Service were electronically filed with the Clerk of the Court for the United States Bankruptcy Court, Eastern District of Michigan using the CM/ECF System, which will send notification of such filing to all attorneys and parties of record registered electronically.

Dated: May 1, 2018

/s/ Julie Beth Teicher
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EXHIBIT A

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5/1/2018

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